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June 11, 2020

**Delivered by Email & RESS**

Ms. Christine Long, Registrar and Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Long:

**RE: Ontario Energy Board's Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency**  
**File No: EB-2020-0133**  
**Association of Power Producers of Ontario (“APPrO”) Comment on Draft Issues List**

We are counsel to APPrO in above captioned matter.

Pursuant to the Ontario Energy Board's (“OEB” or the “Board”) letter dated May 14, 2020 and June 4, 2020, APPrO makes the following submissions on the Draft Issues List in respect of the above noted matter.

APPrO is generally supportive of the Draft Issues List as proposed. It appears to be of sufficient scope to cover numerous different matters that the OEB may wish to address over the course of the consultation.

With respect to Issue #1a, the Board also invited substantive comments.

Issue #1a states:

*Should the OEB provide advanced policy direction in the near term (for example at the time of establishing the Final Issues list), to provide greater certainty with respect to the recoverability of amounts tracked in the Account, such as by confirming the recoverability of any incremental bad debt expense?*

This is an unusual issue in that it seeks to have the OEB provide policy direction without the benefit of any evidence, discovery, discussion and limited submissions.

APPrO submits that any such advanced policy direction should be limited in scope and duration. The OEB should reserve the discretion to revise its policy direction if, through the course of this consultation or subsequent proceedings, it discovers that there are unanticipated issues that arise.

In many ways this COVID situation is similar to a Z-Factor event. With other Z-Factor events recovery is typically only permitted by the OEB after the fact, after first examining the facts to ensure the event was truly outside of a utility's reasonable control, the amounts sought for recovery are directly related to the event, the amounts are material, the amounts are outside of the basis upon which rates were set, and that the amounts were prudently incurred.

As stated in APPrO's Request to Participate letter dated May 22, 2019, APPrO is participating only as it relates to the accounts established by Enbridge Gas Inc. It is only these accounts that affect the interests of gas-fired generators who are its customers.

APPrO submits that the OEB should, to the extent possible, avoid fettering its discretion with regards to adjudicating the recoverability of specific amounts until it is more fully informed by the information made available in this consultation, by the actual and detailed facts supporting a particular requests for recovery.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

Per:

*Original signed by Flora Ho*

Flora Ho

cc: David Butters, APPrO